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9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12 KELLY WILSON,
13

14 Plaintiff,

15 vs.

16 THE WALT DISNEY COMPANY, DISNEY
17 ENTERPRISES, INC., WALT DISNEY
18 PICTURES, and WALT DISNEY MOTION
PICTURES GROUP, INC.,

19 Defendants.
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Case No. 3:14-cv-01441-VC

**DECLARATION OF PETER DEL VECHO
IN SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT
AND OPPOSITION TO PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

**UNREDACTED VERSION OF
DOCUMENT SOUGHT TO BE SEALED**

Judge: Hon. Vince G. Chhabria

Date: April 9, 2015

Time: 10:00 a.m.

Ctrm: 4

1 I, Peter Del Vecho, declare as follows:

2 1. I am a producer at the Walt Disney Animation Studios (together with the named
3 defendants in this case, “Disney” or “Defendants”). I am submitting this declaration in support of
4 Defendants’ Motion for Summary Judgment and Opposition to Plaintiff’s Motion for Partial
5 Summary Judgment. The facts set forth in this declaration are based on my personal knowledge.
6 If called as a witness, I could and would competently testify to the facts contained herein.

7 2. I have worked at Disney for almost 20 years. I produced *The Princess and the*
8 *Frog* (2009), *Winnie the Pooh* (2011), *Frozen* (2013), and *Frozen Fever* (2015). I was responsible
9 for the overall production of the *Frozen* teaser trailer.

10 3. Disney and other animation studios frequently utilize teaser trailers in connection
11 with upcoming theatrical releases. A teaser trailer provides the audience with a “taste” of the
12 movie several months before its theatrical release. A teaser trailer generally does not reveal much
13 or anything about the plot of the movie, and it may not contain scenes, characters, or plot elements
14 that ultimately appear in the finished film. A teaser trailer usually will introduce the audience to
15 one or a few characters from the film in order to whet the audience’s appetite to learn more about
16 the movie. A theatrical trailer, on the other hand, is usually cut together using finished scenes
17 from the movie and introduces the audience to the movie’s plot, scope, and scale, as well as
18 additional characters and/or music. A theatrical trailer generally will be released closer in time to
19 the movie’s release.

20 4. We started work on the *Frozen* teaser trailer in January 2013, and Disney released
21 the teaser trailer to the public in June 2013. During this time period, we were working on *Frozen*
22 as well. We generally utilized the same creative and production teams to work on both the teaser
23 trailer and the film.

24 5. Our process for conceiving and developing the teaser trailer was similar in many
25 respects to the conception and development of the animated film itself. Among other things, we
26 engaged in story “brainstorming” meetings to develop ideas for the teaser trailer. Disney has used
27 story meetings for this purpose going back to the time that Walt Disney founded and ran the
28 Studio. During a typical story or brainstorming meeting, members of the creative team will gather

1 in a “story room” (a large conference room) and brainstorm ideas. People will throw out ideas;
2 others will react to or “riff” off of these ideas; and the process will continue, as we work to harness
3 the creative thoughts and ideas of the people on our team. In connection with this process,
4 members of the story team often will create preliminary drawings—called “storyboards”—that
5 illustrate ideas and concepts we have discussed.

6 6. At my deposition in this matter, Plaintiff’s counsel marked as an exhibit a
7 collection of emails and other documents that included all or substantially all of the minutes of our
8 brainstorming meetings for the *Frozen* teaser trailer. A true and correct copy of this exhibit is
9 attached as Exhibit 1 to this declaration. In addition to minutes of story meetings, Exhibit 1 also
10 includes minutes of meetings with members of various departments, including editorial, layout,
11 animation, and music, during the several months of our work on the teaser trailer. All of these
12 minutes reflect the fact that the process of brainstorming ideas and refining our creative work
13 continues throughout the production process.

14 7. Each set of minutes in Exhibit 1 was created at or near the time of the meeting or
15 discussion in question by someone designated to prepare the minutes. We create these minutes so
16 that we have an accurate record of our ideas and directions for all the subsequent stages of the
17 creative process. These minutes allow us to see the evolution of our ideas, and the minutes
18 provide guidance for people on the production team as they implement and refine the ideas that
19 come out of earlier meetings. The creation of these minutes is a regular part and practice of
20 Disney’s process of creating animated works. We maintain these minutes in the course of
21 Disney’s regularly conducted activity.

22 8. The minutes attached at Exhibit 1, together with various storyboards including
23 those described below and attached as exhibits, document our independent creation of the *Frozen*
24 teaser trailer.

25 9. As the notes reflect, our initial brainstorming meeting took place on Monday,
26 January 7, 2013. I attended that meeting, along with our directors, Chris Buck and Jennifer Lee;
27 our head of story, Paul Briggs; and several people from our story and animation departments.
28

1 10. As the notes from the January 7, 2013 meeting reflect, our team brainstormed a
2 number of ideas for the teaser trailer, potentially involving several of the characters from the
3 movie. Our discussion and efforts quickly started to focus on using Olaf and Sven in the teaser
4 trailer. There were several reasons for this. First, we thought that Olaf, in particular, was a
5 character likely to have broad audience appeal. Olaf is a new type of snowman, with “parts” that
6 detach and restack in different configurations, as well as a great personality and a fabulous voice
7 and laugh (provided by the actor Josh Gad). Second, we were focused on having a teaser trailer
8 that emphasized physical, non-verbal comedy. In or around 2012, before we started work on the
9 *Frozen* teaser trailer, I attended a meeting at Pixar for the international marketing teams of both
10 Pixar and Walt Disney Animation Studios. One of the subjects discussed at that meeting was what
11 makes a teaser trailer effective. The international marketing teams said that physical comedy with
12 little or no dialogue (and hence little or no need for verbal translation) played well with
13 international audiences. Olaf and Sven both lent themselves to physical, non-verbal comedy.
14 Third, as of January 2013, Olaf and Sven were relatively well developed in terms of their look and
15 mannerisms in comparison to other characters in the film.

16 11. The January 7, 2013 notes reflect that, from the start, our team considered ideas
17 involving “Sven trying to get Olaf’s nose.” That appears at the top of page 1 of these notes,
18 reflecting a statement by one of our directors, Jennifer Lee (abbreviated “JL” in these meeting
19 minutes). The notes further reflect that our head of animation, Lino DiSalvo (abbreviated “LD”),
20 raised the idea of doing “[d]ifferent things with noses.” A member of our story team, Raymond
21 Persi (abbreviated “RP”), suggested the idea of “[s]ee him [Olaf] try to find a nose, see Sven
22 eating carrots & gets idea. Start with one character & introduce the second one.” The notes
23 reflect that we discussed a number of ideas involving Olaf and Sven, as well as some ideas
24 involving other characters, including Elsa and Marshmallow, the giant snowman. The last page of
25 the minutes of the January 7, 2013 meeting contains a summary list of “Ideas” that we would
26 continue to discuss. One of these was “Trying to find nose.”

27 12. Our brainstorming process continued with a meeting on January 11, 2013. The
28 minutes from this meeting also are included in Exhibit 1. At this meeting, we discussed, among

1 other things, various story ideas, or “pitches,” that we would present to John Lasseter, the Chief
 2 Creative Officer of Walt Disney Animation Studios, at a meeting several days later. The notes
 3 reflect that we delegated to several members of the story team the task of putting together
 4 storyboards for these pitches. These included an idea for “Olaf stuck in ice, trying to reach his
 5 carrot nose,” that we assigned to Nicole Mitchell to storyboard. Another pitch idea involved “Olaf
 6 trying to find a nose, uses a variety of objects,” that we assigned to Don Dougherty to storyboard.

7 13. Attached as Exhibit 2 are true and correct copies of the storyboards that our team
 8 created for the January 15, 2013 pitch meeting with John Lasseter. Pages 1-2 contain Don
 9 Dougherty’s boards of Olaf trying on a variety of objects for a nose. Olaf finally gets a carrot nose
 10 when Sven blows a carrot through the back of Olaf’s head. Olaf’s pleasure at being able to smell,
 11 however, is short lived, as Sven promptly takes a bite out of the carrot. Nicole Mitchell’s “Olaf on
 12 Ice” starts at the bottom of page 8 of these storyboards and continues through page 11. “Olaf on
 13 Ice” begin with a nose-less Olaf, who sees a carrot on a frozen pond. Olaf then ventures out to get
 14 the carrot. The boards show Olaf having difficulty progressing across the ice, as his legs become
 15 detached; Olaf using his stick arm to try to reach the carrot; and Olaf throwing his head toward the
 16 carrot to retrieve it.

17 14. Our team presented these and other ideas to John Lasseter on January 15, 2013.
 18 The minutes of that meeting also are in Exhibit 1. As the minutes reflect, we had an active
 19 brainstorming discussion that worked off of and evolved from the ideas captured in the
 20 storyboards and other ideas that various participants threw out at the meeting. For example, as
 21 reflected on page 2 of these minutes, Jennifer Lee stated: “The carrot—Sven wants to eat it, Olaf
 22 wants it as a nose.” (Jennifer Lee’s name was abbreviated at this meeting as “JLee.” It was
 23 common practice for the note taker to use this abbreviation for Jennifer Lee when she and John
 24 Lasseter were both at the same meeting. In such cases, as in these meeting minutes, John
 25 Lasseter’s name is abbreviated “JL.”) That idea was followed by one from Chris Buck (“CB”),
 26 who stated: “He [Olaf] does his walk, falls & loses his nose. Then Sven comes in. Real
 27 motivation to get his nose back.” Later on the same page, the notes reflect Chris Buck’s
 28 statement: “I like the simplicity of both of them going for the carrot. Conflict.” Jennifer Lee

1 pointed out “that is also in the movie,” a reference to the fact that Sven’s interest in carrots in
 2 general, and Olaf’s carrot nose in particular, was a concept we already were working to include in
 3 the feature film.

4 15. The brainstorming at the January 15, 2013 meeting continued with further ideas for
 5 Olaf losing his nose and trying to reach it before Sven does. For example, at the bottom of page 2,
 6 the notes reflect John Lasseter stating: “Olaf sneeze, carrot shoots off. Just as he picks it up, he
 7 does it again. Gets right in front of Sven who sucks it in. Pulls it out with slobber. Olaf sneezes
 8 again.” David Sameth, the Executive Vice President for Marketing for Disney, said: “Funny to
 9 see him sneeze it off.” Near the top of page 3, the notes reflect that John Lasseter said: “Olaf’s
 10 trundling along, a tiny patch of new grass with a couple flowers. He sniffs at them, then sneezes.
 11 It becomes like a dagger or something.” David Sameth remarked: “Milk that moment, pre-
 12 sneeze.” And John Lasseter stated: “Sneezes nose across the ice. Looks across & there’s Sven.
 13 Race for the carrot. Slipping on the ice. Takes his head & throws it. Just his torso comes off,
 14 running on his hands toward it. Gets traction that way. Whole time Sven is trying to slip over it
 15 too. Competition who will get to carrot first.” As reflected later on the same page, John Lasseter
 16 also said: “Great timing. Olaf’s cute trundle but walking in place, can’t move. Sitting down,
 17 takes an arm off and rows, scoots his butt along.” Jennifer Lee said: “Sven could get his tongue
 18 stuck on the ice. Right before the carrot.” The notes further reflect John Lasseter’s statement:
 19 “Have Sven get completely out of control, gets some speed going. Scoops up the carrot & all
 20 Olaf’s parts, screaming across the ice together. Hit the snow. Needs a button. That gives you
 21 great stuff with Sven. Simple thing of both trying to get carrot first. Work out gags like that.
 22 Olaf walking along, sees the grass, head turns but body keeps walking. Stops to smell it. Sneezes
 23 & shoots off the carrot across the ice. Looks up and Sven is on the other side. Race.” John
 24 Lasseter’s reference to a “button” is a standard shorthand term for a gag that will be the finale of a
 25 scene, or in this case, the teaser trailer.

26 16. We continued to brainstorm the contours of the idea for teaser trailer in the days
 27 and weeks following our January 15, 2013 meeting. For example, at a meeting on January 18,
 28 2013, the minutes of which also are in Exhibit 1, the directors, the story team, our head animator,

1 Lino DiSalvo, and I met to continue brainstorming ideas for the teaser trailer. As these minutes
 2 reflect, Lino DiSalvo said: “When the carrot is in the middle, cut back & forth a few times, setting
 3 up the anticipation build up, like a Western stand-off.” “Western stand-off” refers to a well-
 4 known and recurring filmmaking technique of building tension by cross-cutting back and forth
 5 between characters eyeing the same object. A classic example of this, of course, is the gun in the
 6 middle of the town square in Western films.

7 17. The brainstorming minutes reflect additional changes to the storyline, layout and
 8 other elements of the teaser trailer in the months after January 2013. For example, the notes of a
 9 February 5, 2013 meeting with members of the editorial team reflect Jennifer Lee (“JL” in these
 10 notes) stating: “Something about the reveal of Sven isn’t right.” The notes then reflect that Chris
 11 Buck, the other director, making a comment for the layout artists: “[W]hat may be fun is to use
 12 the carrot as the anchor and pan around it to reveal Sven as one shot.” The layout artists are
 13 responsible for staging and camera work. In the final teaser trailer, the carrot does shoot across
 14 the ice in a continuous shot, and the camera pans around the frozen pond to show Sven, for the
 15 very first time, standing on the opposite bank. The notes from the March 1, 2013 teaser review
 16 reflect, at page 2, a discussion of how to end the teaser trailer—in other words, the “button” that
 17 John Lasseter described at the January 15, 2013 meeting. The notes of the February 5, 2013
 18 meeting reflect that Chris Buck (“CB”) stated: “We need a funnier out. It’s just a soft out.”
 19 Jennifer Lee (“JL”) then stated: “What if he grabs his nose before the sneeze and his head blows
 20 off.” That, in fact, is how the final teaser trailer ends. The notes in Exhibit 1 reflect numerous
 21 additional meetings and discussions about changes to the teaser trailer all the way through April
 22 2013.

23 18. I did not know of or see *The Snowman* until after the *Frozen* teaser trailer was
 24 completed and released. I do not know of any person involved with the *Frozen* teaser trailer who
 25 knew of or saw *The Snowman* prior to our completing and releasing the teaser trailer. Based on
 26 my two decades of experience at Disney, I am confident that if anyone on our team had known of
 27 or seen *The Snowman*, they would have raised the issue and we would have come up with a
 28 different idea for the teaser trailer. I say that not because I believe that *The Snowman* and the

1 *Frozen* teaser trailer are especially similar. I think that, beyond sharing the high-level idea of a
2 snowman and an animal or animals competing to get a snowman's carrot nose from the middle of
3 a frozen pond, the two works are fundamentally different. However, in my experience at Disney,
4 we want our works to be novel and unique, even at such an abstract level.

5 19. I understand that the Plaintiff contends that Disney copied numerous details,
6 including camera angles, framing and character reactions from *The Snowman* into the *Frozen*
7 teaser trailer. That contention is false, as is Plaintiff's more general contention that we copied
8 anything from Plaintiff's work. Plaintiff's contention also is completely implausible, given how
9 we go about creating animated works generally, and how we created the *Frozen* teaser trailer in
10 particular. The *Frozen* teaser trailer was not created by one person or a few people drawing
11 animation cells. More than 50 people at Disney were involved in putting the teaser trailer
12 together, over the course of more than four months of intense work. The people involved included
13 individuals from multiple departments, including story, editorial, art, layout, animation, visual
14 effects, cinematography and lighting, and music.

15 20. To engage in the type of detailed copying of camera angles, character reactions,
16 and the like that Plaintiff alleges, dozens of people with a hand in all of these areas would had to
17 have seen the Plaintiff's work multiple times and would had to have engaged in a carefully
18 coordinated process of copying these elements. It is inconceivable that any of this could have
19 happened in the first place, but if it did, this level of coordination necessarily would have been
20 reflected in numerous production minutes and other records that our teams utilize to maintain
21 coordination in the production process. I am not aware of a single record within Disney that even
22 remotely indicates that anything of this nature, or any copying at all, took place in the creation of
23 the *Frozen* teaser trailer.

24 I declare under penalty of perjury under the laws of the United States that the foregoing is
25 true and correct, and that this declaration was executed this 10th day of March 2015, at Burbank,
26 California.

27 
28 PETER DEL VECHO